

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 SUZETTE PUENTE, an individual, and
10 STATE FARM MUTUAL AUTOMOBILE
11 INSURANCE COMPANY, as subrogee of
Suzette Puente,

12 Plaintiffs,

13 v.
14

15 UNITED STATES OF AMERICA,

16 Defendant.

Case No. C18-825 RSM

ORDER GRANTING DEFENDANT'S
RULE 12(c) MOTION TO DISMISS
PLAINTIFF PUENTE'S CLAIMS

17 This matter comes before the Court on a Rule 12(c) Motion to Dismiss filed by
18 Defendant United States of America. Dkt. #20. This Motion is directed at the claims of
19 Plaintiff Suzette Puente and not the claims of Defendant State Farm. No party has opposed this
20 Motion. In accordance with Local Rule 7(b)(2), the Court considers Plaintiffs' failure to file an
21 opposition to this Motion "as an admission that the motion has merit."
22

23 The Court finds Ms. Puente's claims are properly dismissed as untimely under the
24 Federal Tort Claims Act ("FTCA"). Accepting the factual allegations in the Amended
25 Complaint as true, there is no issue of material fact in dispute with respect to the timing of the
26 filing of Ms. Puente's claims. In November 2016, Ms. Puente submitted an Administrative
27 Claim to EPA, which claim EPA denied on or about February 14, 2017. Dkt. #7 at 2. On June
28

ORDER GRANTING DEFENDANT'S RULE 12(c) MOTION TO DISMISS PLAINTIFF
PUENTE'S CLAIMS - 1

1 15, 2017, Puente submitted an Amended Administrative Claim, which claim EPA denied on or
2 about March 23, 2018. *Id.* This lawsuit was filed on June 7, 2018. Dkt. #1. Plaintiffs did not
3 file this lawsuit within six months from the agency's final denial of Ms. Puente's administrative
4 claim. Ms. Puente's filing of an amended administrative claim after the EPA's final denial of
5 the original administrative claim does not restart the six-month deadline. *See Redlin v. United*
6 *States*, 921 F.3d 1133 (9th Cir. 2019).
7

8 Having reviewed the relevant briefing and the record, the Court hereby finds and
9 ORDERS that Defendant United States of America's Motion to Dismiss, Dkt. #20, is
10 GRANTED. Plaintiff Suzette Puente's claims against the United States are dismissed with
11 prejudice. Plaintiff State Farm's claims are not addressed by this Order. The Court is directed
12 to send a copy of this Order to:
13

14 Suzette Puente
15 15914 44th Ave. W, Apt. M308
16 Lynnwood, WA 98087-6165
17

18 DATED this 1st day of August 2019.

19 
20

21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28